

ORDINANCE NO. 20-151

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, COUNTY OF YAVAPAI, ARIZONA, AMENDING THE TOWN OF DEWEY-HUMBOLDT, ARIZONA CODE OF ORDINANCES, TITLE III ADMINISTRATION, CHAPTER 30 TOWN COUNCIL AND OFFICIALS, BY AMENDING § 30.031, § 30.100, AND § 30.105, ALL RELATED TO COUNCIL MEETINGS, THE AGENDA COMMITTEE, ORDER OF BUSINESS AND AGENDA PREPARATION PROCESS.

Be it ordained by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, as follows:

SECTION I

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council and Officials, Section 30.031 is hereby amended to read as follows (additions in underlined ALL CAPS; deletions in strikeout):

§ 30.031 MAYOR AND VICE MAYOR; APPOINTMENT, POWER AND DUTIES.

(A) Preamble. Pursuant to Arizona Revised Statutes, in addition to being a member of the Town Council, the Mayor is the town's Chief Executive Officer. All authority in town government ultimately resides with the Town Council of which the mayor comprises one-seventh of its membership. Except as set forth in the Arizona Constitution and the Arizona Revised Statutes, the Mayor has no duties, responsibility or authority not delegated by the Council. This section sets forth the duties, responsibilities and authority delegated by the Common Council to the Mayor.

(B) The Mayor shall perform such duties as prescribed by town ordinance, as imposed by the Town Council, or as required by the constitution and laws of the State of Arizona, including the following:

- (1) The Mayor is the official head of the town for all ceremonial purposes.
- (2) The Mayor does not possess any power of veto.
- (3) The Mayor (and any other member of Council) shall not use town letterhead for any correspondence without the express approval of a majority of the Town Council and unless it reflects the view of the majority of the Council as expressed by either vote or consensus.
- (4) The Mayor shall not act as a ~~representative~~ REPRESENTATIVE of the town before any other town, city, county, state, or federal government or agency without the express approval of a majority of the Town Council. If Council has previously appointed a Councilmember to act as

the town's representative to such a body or meeting, the Mayor may attend as an observer and shall not participate in the meeting unless acting as an alternate representative of the town.

(5) ~~The Mayor and Vice Mayor, or their designee(s), shall coordinate with the Town Manager to develop agendas for meetings of the Town Council. RESERVED~~

(6) The Mayor shall act as the Chairman of the Council and preside over its meetings in accordance with Robert's Rules of Order and with the Council procedures set forth in §§ 30.107 and 30.109 of this code.

(7) As a member of the Council, the Mayor shall have the same rights and privileges as all other Councilmembers, including the ability to make, second, and vote on motions made by the Council.

(8) The Mayor may make inquiries to town staff but shall not interfere with the Town Manager's authority, either by giving orders or explicit directions, suggestions, or requests, publicly or privately, regarding town matters to any subordinates of the Town Manager whether it be financial, budgetary, human resources, or operational in manner. The Mayor shall not attempt to exert influence on the Town Manager on issues relating to the hiring or removal of persons employed by the town or on issues yet to be decided on by the Council.

(9) The Mayor shall sign any ordinance, resolution, contract, warrant, demand or other document or instrument requiring the Mayor's signature within five business days from the date the Council took action requiring the Mayor's signature or from notification by the Town Manager that such document requires the Mayor's signature. If the Mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument authorized to be signed and requiring his signature, then the Vice-Mayor shall sign such ordinance, resolution, contract, warrant, demand or other document or instrument and when so signed such document shall have the same force and effect as if signed by the Mayor. If the Vice Mayor refuses or fails to sign any ordinance, resolution, contract, warrant, demand or other document or instrument within five days from notification by the Town Manager that such document requires his signature, then any member of the Council may sign such document and when so signed such document shall have the same force and effect as if signed by the Mayor.

(10) The Mayor may, by proclamation, declare a local emergency to exist due to any natural or man-made calamity or disaster. The Mayor may also declare such an emergency in the event of a threat of occurrence of riot or other acts of civil disobedience which endanger life or property within the town. After declaration of any such emergency, the Mayor shall govern by proclamation and impose any and all necessary regulations to preserve the peace and order of the town, including but not limited to:

(a) Imposition of a curfew for all or any portion of the town;

(b) Ordering the closing of any business;

(c) Closing to the public access to any public building, street or other public place; or

(d) Calling upon regular or auxiliary law enforcement agencies and organizations within or without the town for assistance in providing for the safety of the town, its citizens and property.

(11) As the Mayor may deem appropriate, and upon request by an organization or individual, the Mayor may prepare proclamations that identify particular days or events to be of special interest to the town and its citizens.

(12) The Mayor shall prepare and submit to the Council an annual update on the external memberships and committees that the Mayor participates in or serves on in his or her official capacity. The update shall include the entity's mission and purpose, associated costs, the role of the Mayor, and the town's position/policy for each of the external memberships or committees. The report shall be submitted at the first regular Council Meeting in December. Exception: if any member of Council requests a report on an activity or meeting that the Mayor has attended prior to the annual report date that member may request such report by action of Council action agenda request form. Upon majority affirmative vote of the Council, the Mayor shall provide said report, including direct effects and justification for the use of town funds, at a Council meeting within 30 days of the request.

(13) The Mayor may perform such other duties consistent with the Mayoral duties set forth herein and as required by town ordinance or resolution, action of council, or Arizona State Law.

(C) Action in excess of delegation. If a majority of the Town Council possesses a reasonable belief that the Mayor has acted in excess of the Town Council's delegation of duties, responsibilities, or authority, the Town Council shall direct the Town Prosecutor to consider charging the Mayor with a civil violation of this section. If the Town Prosecutor brings such a charge and if the Town Magistrate determines by a preponderance of evidence that the Mayor has exceeded his or her delegated authority, the Magistrate shall impose a fine within the guidelines of his or her authority and the general penalties set forth in § 10.99.

(D) Failure to perform. If a majority of the Town Council possesses a reasonable belief that the Mayor has failed to perform any duty or responsibility imposed on him or her by this section, any other ordinance, statute, or law, the Town Council shall direct the Town Prosecutor to consider charging the Mayor with a civil violation under this section or a criminal charge of nonfeasance in public office as defined by Arizona Revised Statutes, or the Town Prosecutor may, of his or her own volition, charge the Mayor with a civil violation under this section or a criminal charge of nonfeasance in public office as defined by Arizona Revised Statutes. If the Town Prosecutor brings a civil charge and if the Town Magistrate determines by a preponderance of evidence that the Mayor has failed to perform as required by this section, the Magistrate shall impose a fine within the guidelines of his or her authority and general penalties set forth in the town code. If the Town Prosecutor brings a criminal charge of nonfeasance in public office and the Town Magistrate finds the Mayor guilty, the Mayor shall be subject to the

maximum criminal penalty available for such a violation. If the Town Prosecutor brings both a civil and a criminal charge and the Mayor is found responsible for the civil charge and guilty of the criminal charge, the Mayor shall be subject to both the criminal penalties and the civil fine, but if fines are imposed for the criminal offense, they shall offset any fines imposed for the civil offense.

(E) Appointment of Vice Mayor; term. Absent a vote of no-confidence, at the second regular Council Meeting in December each year, the Town Council shall appoint the most senior Councilmember who has not already been the Vice Mayor and has served on Council for at least one year to the Vice Mayor position for a one-year term or until a new Vice Mayor is appointed. If no Councilmember meets the above criteria or the person to be appointed declines the appointment, the most senior Councilmember shall be appointed to serve as Vice Mayor for a one-year term.

(F) Duties of Vice Mayor. The Vice Mayor shall perform the duties of the Mayor in the Mayor's absence and shall perform such other duties as may be, from time to time, delegated by the Town Council.

SECTION II

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council and Officials, Section 30.100 is hereby amended to read as follows (additions in underlined ALL CAPS; deletions in strikeout):

§ 30.100 COUNCIL MEETINGS GENERALLY.

(A) All meetings of the Town Council are governed by state Open Meetings Law (the "Act"). The Act applies to the Town Council, and all subordinate boards, commissions, and Citizen Committees of the town. If any member of a town legislative body, or town staff, believe that action has been taken on an item in contravention of the Act, that person is privileged to place the item on a future agenda for reconsideration or other action.

(B) UPON RECOMMENDATION OF THE TOWN MANAGER, A MAJORITY OF THE COUNCILMEMBERS PRESENT MAY VOTE AT A REGULAR MEETING TO CANCEL OR RESCHEDULE ANY FUTURE COUNCIL MEETING. IN THE EVENT A MEETING IS CANCELLED, THE TOWN CLERK SHALL POST NOTICE OF THE CANCELLATION.

SECTION III

The Town of Dewey-Humboldt, Arizona Code of Ordinances, Title III Administration, Chapter 30 Town Council and Officials, Section 30.105 is hereby amended as follows (additions in underlined ALL CAPS; deletions in strikeout):

§ 30.105 COUNCIL AGENDA.

(A) The Manager and Clerk are responsible for receiving and organizing all materials for the Council agenda, ~~in collaboration with the Mayor and Vice Mayor~~ AS OUTLINED IN

~~COUNCIL-APPROVED POLICY NUMBER TC20-03. The Mayor, Vice Mayor, Town Manager and Town Clerk shall constitute the agenda committee. Notice of agenda committee meetings shall be provided to other members of the Council. No more than three Councilmembers may attend agenda committee meetings and attendees shall be determined based on the order of requests made, not to exceed three. The Mayor or Town Manager should be contacted if an individual councilmember wishes to modify the agenda. Upon recommendation of the agenda committee, the Mayor may cancel or reschedule a study session or regular council meeting.~~

(B) (1) Any resident of the town may request that an item be placed on a Council agenda by presenting the item at a Council meeting under the topic of “public comment on non-agendized items”, or by requesting that a Councilmember submit a “Council Agenda Action Request Form.”

(2) Any member of the Town Council may request an item be placed on a future Council agenda. A request to modify or remove an agenda item may be made by the Councilmember who requested the item be placed on the agenda, in which case it shall be modified or removed without further action. The Mayor or any other Councilmember may request an item that was submitted by another Councilmember be modified or removed, in which case it may only be modified or removed with the concurrence of the Councilmember who requested it be put on the agenda.

(C) Agenda item requests shall be submitted using a “Council Agenda Action Request Form” AS OUTLINED IN COUNCIL-APPROVED POLICY. The ~~agenda committee~~ TOWN MANAGER OR TOWN CLERK shall place the item on the next appropriate agenda. An emergency agenda request may be submitted after the deadline pursuant to § 30.031(B)(10).

(D) Order of agenda.

(1) Regular Council Meeting Agendas shall begin with the following items:

- (a) Call to order;
- (b) Roll call;
- (c) Pledge of Allegiance;
- (d) Invocation;

(e) ANNOUNCEMENTS REGARDING TOWN CURRENT EVENTS; GUESTS; APPOINTMENTS; AND PROCLAMATIONS

(2) The following agenda items shall be appropriately placed on ~~the agenda~~ REGULAR COUNCIL MEETING AGENDAS, based on content, by the ~~agenda committee~~ TOWN MANAGER OR TOWN CLERK.

- ~~(ea)~~ Public comment on non-agendized items;
- ~~(fb)~~ Public hearing;
- ~~(gc)~~ Consent agenda;
- ~~(hd)~~ Reports; Town Manager’s report;
- ~~(ie)~~ General business;
- ~~(j)~~ Announcements, proclamations;

(kf) Consideration of additional Special Session(s); and

(lg) Adjournment.

(23) When Council holds a Study Session or Special Council meeting, the following agenda items shall be appropriately placed on the agenda by the ~~agenda committee~~ TOWN MANAGER OR TOWN CLERK based on content:

(a) Call to order;

(b) Roll call;

(c) PUBLIC COMMENT ON NON-AGENDIZED ITEMS;

(ed) Discussion only items;

(de) Action items (Special Meetings only); and

(ef) Adjournment.

(E) Modifications to the agenda.

(1) The presiding officer or any Councilmember may request a change in the order of the agenda items which, if approved by a majority of the Council, shall be granted.

(2) An agenda item may be continued to a date certain or postponed indefinitely by motion and approval by a majority of the members present who have not declared a conflict of interest.

~~(F) Modifications to the agenda.~~

~~(1) The presiding officer or any Councilmember may request a change of order of the agenda which, if approved by a majority of the Council, shall be granted.~~

~~(2) An agenda item may be continued to a date certain or postponed indefinitely by motion and approval by a majority of the members present who have not declared a conflict of interest.~~

PASSED AND ADOPTED by the Mayor and Common Council of the Town of Dewey-Humboldt, Arizona, this 21st day of January, 2020, by the following vote:

AYES: Four

NAYES: Three ABSENT: Zero

EXCUSED: Zero ABSTAINED: Zero

APPROVED this 21st day of January, 2020.

ATTEST:


Timothy A. Mattix, Town Clerk


Terry Nolan, Mayor

APPROVED AS TO FORM:


Bigelow Law Offices, PLC
Town Attorney
By: Kay Bigelow

I, TIMOTHY A. MATTIX, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. 20-151 ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF DEWEY-HUMBOLDT, ARIZONA, ON THE 21st DAY OF JANUARY, 2020, WAS POSTED IN THREE PLACES ON THE 22nd DAY OF

January, 2020.


Timothy A. Mattix, Town Clerk